

**REMARKS**

This paper is submitted in response to the Office action mailed October 14, 2009 ("the Office Action"). The foregoing amendment cancels claim 3; amends claim 2; and adds new claims 29. Claims 1, 2, 4-10, and 12-29 are now pending in view of the amendments. Applicants respectfully request reconsideration of the application in view of the above amendments to the claims and the following remarks. For Examiner's convenience and reference, Applicants present remarks in the order that the Office Action raises the corresponding issues.

In connection with the prosecution of this case and any related cases, Applicants have, and/or may, discuss various aspects of the disclosure of the cited references as those references are then understood by the Applicants. Because such discussion could reflect an incomplete or incorrect understanding of one or more of the references, the position of the Applicants with respect to a reference is not necessarily fixed or irrevocable. Applicants thus hereby reserve the right, both during and after prosecution of this case, to modify the views expressed with regard to any reference.

Please note that Applicants do not intend the following remarks to be an exhaustive enumeration of the distinctions between any cited references and the claims. Rather, Applicants present the distinctions below solely by way of example to illustrate some of the differences between the claims and the cited references. Finally, Applicants request that Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of any reference is consistent with Examiner's understanding.

Unless otherwise explicitly stated, the term "Applicants" is used herein generically and may refer to a single inventor, a set of inventors, an appropriate assignee, or any other entity or person with authority to prosecute this application.

**Rejection under 35 U.S.C §103(a)**

The Office Action rejects the claims under 35 U.S.C §103(a) as follows:

- Claims 1-3, 15-16, 22, 23, 25, 27, and 28 are rejected as being unpatentable over *Bender* (U.S. Patent Publication No. 2002/0041568) in view of *Rajaram et al.* (U.S. Patent Publication No. 2003/0033599);
- Claims 4-7, 24, and 26 are rejected as being unpatentable over *Bender* in view of *Rajaram*, as applied to claims 1-3, 15-16, 22, 23, 25, 27, and 28 above, and in further view of *Picazo, Jr. et al.* (U.S. Patent No. 6,006,275);
- Claims 8-10 and 17-20 are rejected as being unpatentable over *Bender* in view of *Rajaram*, as applied to claims 1-3, 15-16, 22, 23, 25, 27, and 28 above, and in further view of *Rose et al.* (U.S. Patent Publication No. 2003/0120925);
- Claims 12-14 are rejected as being unpatentable over *Bender* in view of *Rajaram* and *Rose*, as applied to claims 8-10 and 17-20 above, and in further view of *Benjamin et al.* (U.S. Patent No. 5,668,654); and
- Claim 21 is rejected as being unpatentable over *Bender* in view of *Rajaram* and *Rose*, as applied to claims 8-10 and 17-20 above, and in further view of *Fernandes et al.* (U.S. Patent Publication No. 2003/0218066).

Applicants respectfully traverse the rejection in light of the following remarks.

To support an obviousness rejection, MPEP §2143.03 requires “all words of a claim to be considered.” Further, the Board of Patent Appeal and Interferences recently confirmed that a proper, post-KSR obviousness determination requires “a searching comparison of the claimed invention—including all its limitations—with the teaching of the prior art.” *In re Wada and Murphy*, Appeal 2007-3733 (BPAI 2008), citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Moreover, as the Supreme Court recently stated, “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added)).

Claim 1 recites a communication module comprising, among other things, “a network interface, wherein the communication module performs [a] primary function over [a] network

via the network interface,” and “a bi-directional interface, wherein the bi-directional interface comprises at least one optical interface and is adapted to provide a local wireless access to the first digital storage unit ... wherein the local wireless access enables the content of the first digital storage unit to be modified to change the primary function of the communication module.” Thus, the communication module of claim 1 has two interfaces—a “network interface” and a bi-directional “optical interface,” each interface having a different purpose.

According to the Examiner, an access point 220A in *Bender* corresponds to the claimed communication module and an Ethernet network 280C corresponds to the claimed network interface of the communication module. *See Office Action* at 2 and 3. The Examiner conceded that “Bender does not appear to explicitly disclose...a bi-directional interface...,” but relied on *Rajaram* as disclosing an infrared interface purported to correspond to the claimed “bi-directional interface.” *See id.* at 3. According to the Examiner, “it would have been obvious to...modify the teachings of Bender to include the teachings of Rajaram so that the routing tables of [access point 220A of] Bender would be updateable through an infrared connection.” *See id.* The Examiner also alleged that a motivation for the combination would have been “so that updates can be made practically and intelligently (as stated by Rajaram in [0013]).” *See id.*

However, contrary to the Examiner’s assertions, the access point 220A of *Bender* does not appear to suffer any deficiencies in terms of updating its routing tables “practically” and “intelligently.” Moreover, the practicality and intelligence of the upgrading described in *Rajaram* is unrelated to the use of an infrared connection. Instead, according to *Rajaram*, “dynamic instruction sets” are what permit a wireless device to “intelligently” perform an upgrade and an “airlink interface”—not an infrared connection—makes it possible to “practically” upgrade software in the field. *See Rajaram* at ¶ 13. Although the infrared connection is mentioned as one possible interface for transmitting software upgrades, *Rajaram* does not assert any advantages to using it over other interfaces, such as the airlink interface or a Bluetooth interface. *See Rajaram* at ¶ 76. In fact, the airlink interface appears to be preferred because it does not require the inconvenience of proximity to the wireless device. *See id.* at ¶ 5 (“The costs involved in such [close proximity] updates are extensive...[and] the customer is inconvenienced and likely to be irritated.”) Thus, no benefit is attained nor any deficiency cured

by using an infrared connection to perform routing table updates in place of the updating mechanisms taught by *Bender*.

Furthermore, one of ordinary skill in the art would have no reason to look to *Rajaram*, which deals with updating software in a wireless phone, to solve the problem of updating routing tables, addressed in *Bender*. The wireless phone-specific problems addressed in *Rajaram*, e.g., updates that “involve the use of new features on [a] phone ... regional problems, or problems associated with certain carriers” (see *Rajaram* at ¶ 4), are not problems one would expect to find in a routing table. Thus, it is hindsight speculation on the Examiner’s part to conclude that the phone updating methods taught in *Rajaram* would be applicable to updating the routing table of *Bender*.

For at least the foregoing reasons, Applicants respectfully submit that no *prima facie* case of obviousness has been established with respect to claim 1. The remaining independent claims—claims 15 and 28—recite at least some features generally similar to those of claim 1 discussed above. For example claims 15 and 28 each recite a network interface and a bi-directional interface (or the use of such in the case of claim 15), although different uses are recited for the bi-directional interface. However, the Examiner applied the same or similar combination of *Bender* and *Rajaram* in rejecting claims 15 and 28 as was applied to reject claim 1. Therefore, the rejection of claims 15 and 28 is submitted to be deficient for at least the same reasons discussed herein. Moreover, because claims 1, 15, and 28 are patentable as discussed herein, the dependent claims are patentable for at least the same reasons.

### **New Claim 29**

As shown above, Applicants have added new claim 29. Support for such claim may be found at least at page 12, lines 3-10 and in Figure 1. Applicants respectfully submit that claim 29 is allowable at least by virtue of its dependence from allowable claim 1.

### **Charge Authorization**

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and

reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

### **CONCLUSION**

In view of the foregoing, Applicants submit that the pending claims are allowable. In the event that Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or overcome by an Examiner's Amendment, Examiner is requested to contact the undersigned attorney.

Dated this 14th day of January, 2010.

Respectfully submitted,

**/Ronald J. Ward/Reg. No. 54,870**

RONALD J. WARD

Registration No. 54,870

ERIC L. MASCHOFF

Registration No. 36,596

Attorneys for Applicant

Customer No. 022913

Telephone: (801) 533-9800

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